

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

THERESA CLEAVLAND,

Plaintiff,

-against-

1:04-CV-0950  
(LEK/DRH)

JO ANN B. BARNHART,  
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on November 28, 2005, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York.

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," Fed. R. Civ. P. 72(b), in compliance with L.R. 72.1. In the interval of at least fifteen days since the Magistrate Judge filed the subject Report-Recommendation, no objections to it have been raised. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Therefore, the Court adopts the Report-Recommendation for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation is **APPROVED** and **ADOPTED** in its

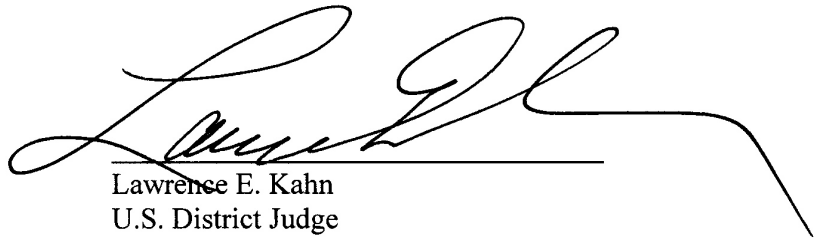
**ENTIRETY**; and it is further

**ORDERED**, that the Commissioner's decision denying disability benefits is **REVERSED**, and Cleveland's motion for a finding of disability is **GRANTED**; and it is further

**ORDERED**, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: February 28, 2006  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge